

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: ONYX SOFTWARE CORPORATION
SECURITIES LITIGATION

No. C01-1346L

~~PROPOSED~~ FINAL JUDGMENT AND
ORDER OF DISMISSAL WITH
PREJUDICE

01-CV-01346-CERT

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1 This matter came before the Court for hearing pursuant to the Order of this Court, dated
2 June 10, 2004, on the application of the parties for approval of the settlement set forth in the
3 Stipulation of Settlement dated as of February 19, 2004 (the "Stipulation"). Due and adequate
4 Notice having been given to the Class as required in said Order, and the Court having considered
5 all papers filed and proceedings had herein and otherwise being fully informed in the premises
6 and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED AND
7 DECREED that:

8 1. This Judgment incorporates by reference the definitions in the Stipulation, and all
9 terms used herein shall have the same meanings as set forth in the Stipulation.

10 2. This Court has jurisdiction over the subject matter of the Litigation and over all
11 parties to the Litigation, including all Members of the Class.

12 3. "Class" and "Class Members" mean for the purposes of settlement, all Persons
13 and entities (other than those Persons who timely and validly requested exclusion from the Class)
14 who purchased shares of Onyx Software Corporation ("Onyx" or the "Company") common stock
15 pursuant to Onyx's Secondary Offering in February 2001 (the "Secondary Offering"), which was
16 completed pursuant to the Shelf Registration Statement dated November 21, 2000, the
17 Prospectus dated January 22, 2001, and a Prospectus dated February 6, 2001 (the "Offering
18 Documents") and who were damaged thereby. Excluded from the Class are Defendants,
19 members of the immediate families of the Individual Defendants, any entity in which any
20 Defendant has or had a controlling interest, present or former directors and officers of Onyx, the
21 legal representatives, heirs, successors or assigns of any such Defendant.

22 4. With respect to the Class, this Court finds and concludes that: (a) the Members of
23 the Class are so numerous that joinder of all Class Members in the class action is impracticable;
24 (b) there are questions of law and fact common to the Class which predominate over any
25 individual question; (c) the claims of the Lead Plaintiff are typical of the claims of the Class;
26 (d) the Lead Plaintiff and Lead Counsel have fairly and adequately represented and protected the

1 interests of the Class Members; and (e) a class action is superior to other available methods for
 2 the fair and efficient adjudication of the controversy, considering: (i) the interests of the
 3 Members of the Class in individually controlling the prosecution of the separate actions; (ii) the
 4 extent and nature of any litigation concerning the controversy already commenced by Members
 5 of the Class; (iii) the desirability or undesirability of concentrating the litigation of these claims
 6 in this particular forum; and (iv) the difficulties likely to be encountered in the management of
 7 the Litigation. Based on the foregoing findings, this Court finds that the requirements of Rule
 8 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied.

9 5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby approves the
 10 settlement set forth in the Stipulation, finds that said Stipulation and settlement are, in all
 11 respects, fair, reasonable and adequate to the Class, and hereby directs the Settling Parties to
 12 perform its terms.

13 6. Except as to any individual claim of those Persons who have validly and timely
 14 requested exclusion from the Class (identified in Exhibit A hereto), the Litigation and all claims
 15 contained therein, as well as all of the Released Claims, are dismissed with prejudice as to the
 16 Lead Plaintiff and the other Members of the Class, as against each and all of the Released
 17 Persons. The Settling Parties are to bear their own costs, except as otherwise provided in the
 18 Stipulation.

19 7. Upon the Effective Date hereof, the Lead Plaintiff shall, and each of the Class
 20 Members shall be deemed to have, and by operation of the Judgment shall have, fully, finally,
 21 and forever released, relinquished and discharged all Released Claims against the Released
 22 Persons, whether or not such Class Member executes and delivers the Proof of Claim and
 23 Release.

24 8. All Class Members are hereby forever barred and enjoined from prosecuting any
 25 of the Released Claims against any of the Released Persons.
 26

1 9. Upon the Effective Date hereof, each of the Defendants shall be deemed to have,
 2 and by operation of this Judgment shall have, fully, finally, and forever released, relinquished
 3 and discharged each and all of the Class Members and Lead Counsel from all claims (including
 4 Unknown Claims), arising out of, relating to, or in connection with the institution, prosecution,
 5 assertion, settlement or resolution of the Litigation or the Released Claims.

6 10. Each of the releases set forth or referred to in the Stipulation shall be and are
 7 hereby deemed to be in effect as of the Effective Date of the Stipulation.

8 11. The Notice of Pendency and Proposed Settlement of Class Action given to the
 9 Class was the best notice practicable under the circumstances, including the individual notice to
 10 all Members of the Class who could be identified through reasonable effort. Said notice
 11 provided the best notice practicable under the circumstances of those proceedings and of the
 12 matters set forth therein, including the proposed settlement set forth in the Stipulation, to all
 13 Persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of
 14 Civil Procedure 23 and the requirements of due process.

15 12. Any Plan of Allocation submitted by Lead Counsel or any order entered regarding
 16 the attorneys' fees application shall in no way disturb or affect this Final Judgment and shall be
 17 considered separate from this Final Judgment.

18 13. Neither the Stipulation nor the settlement contained therein, nor any act
 19 performed or document executed pursuant to or in furtherance of the Stipulation or the
 20 settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the
 21 validity of any Released Claim, or of any wrongdoing or liability of the Defendants or their
 22 respective Related Persons; or (b) is or may be deemed to be or may be used as an admission of,
 23 or evidence of, any fault or omission of any of the Defendants or their respective Related Persons
 24 in any civil, criminal or administrative proceeding in any court, administrative agency or other
 25 tribunal. Defendants and/or their respective Related Persons may file the Stipulation and/or the
 26 Judgment from this action in any other action that may be brought against them in order to

1 support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release,
2 good faith settlement, judgment bar or reduction or any theory of claim preclusion or issue
3 preclusion or similar defense or counterclaim.

4 14. Without affecting the finality of this Judgment in any way, this Court hereby
5 retains continuing jurisdiction over: (a) implementation of this settlement and any award or
6 distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the
7 Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest and
8 expenses in the Litigation; and (d) all parties hereto for the purpose of construing, enforcing and
9 administering the Stipulation.

10 15. The Court finds that during the course of the Litigation, the Settling Parties and
11 their respective counsel at all times complied with the requirements of Federal Rule of Civil
12 Procedure 11.

1 16. In the event that the settlement does not become effective in accordance with the
2 terms of the Stipulation, or the Effective Date does not occur, or in the event that the Settlement
3 Fund, or any portion thereof, is returned to the Defendants, then this Judgment shall be rendered
4 null and void to the extent provided by and in accordance with the Stipulation and shall be
5 vacated and, in such event, all orders entered and releases delivered in connection herewith shall
6 be null and void to the extent provided by and in accordance with the Stipulation.

7 IT IS SO ORDERED.

8 DATED: June 10, 2004



THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT COURT JUDGE

9
10 Submitted by:

11
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